

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 4:13-CR-522-JAR (SPM)
	)	
DEVON NORTON GOLDING, M.D.,	)	
	)	
Defendant.	)	

**ORDER**

This matter is before the Court on Defendant's motion to strike paragraphs 35-44<sup>1</sup> of the superseding indictment as surplusage, or in the alternative, to dismiss the superseding indictment as duplicitous. (Doc. No. 47) The basis of Defendant's motion is that those paragraphs are improper propensity evidence which should be stricken because they are irrelevant, inflammatory and prejudicial. Alternatively, Defendant contends those paragraphs are allegations of separate and distinct offenses which render the superseding indictment duplicitous. Pursuant to 28 U.S.C. § 636(b), this matter was referred to United States Magistrate Judge Shirley Padmore Mensah, who filed a Report and Recommendation on October 17, 2014, recommending that Defendant's motion be denied. (Doc. No. 62) Defendant filed objections to the Report and Recommendation on October 31, 2014. (Doc. No. 66) Defendant's objections are not adequately persuasive.

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<sup>1</sup> Paragraphs 35-44 of the Superseding Indictment allege that Defendant was investigated by the Missouri Bureau of Narcotics and Dangerous Drugs ("BNDD") in 1987 and 1993 (¶¶ 35-36), the Missouri State Board of Registration for the Healing Arts (the "Board") in 1998 (¶¶ 37-39), and the Missouri Board of Pharmacy ("Pharmacy Board") in 2008 (¶¶ 40-44). The allegations assert that Defendant entered into settlements with each of these regulatory agencies.


After careful and independent review of this matter, the Court agrees with the Magistrate Judge's findings that the challenged allegations are relevant to specific elements of the Government's case and can be offered for reasons other than propensity. Further, to the extent Defendant's argument is well-taken, the Court can address any potential prejudice at trial. The Court will, therefore, adopt Magistrate Judge Mensah's recommendations.

Accordingly,

**IT IS HEREBY ORDERED** that the Report and Recommendation of United States Magistrate Judge [62] is **SUSTAINED, ADOPTED AND INCORPORATED** herein.

**IT IS FURTHER ORDERED** that Defendant's Motion to Strike Surplusage or in the Alternative, to Dismiss [47] is **DENIED**.

Dated this 3<sup>rd</sup> day of November, 2014.

  
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**JOHN A. ROSS**  
**UNITED STATES DISTRICT JUDGE**